

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-23 are pending.

Claims 1-4, 6, 7, 9-17, 22 and 23 are rejected.

Claims 5, 8, and 18-21 are objected to but would be allowable if rewritten in independent form.

No claims have been amended.

Claims 1, 17 and 23 are independent claim.

The drawings are objected to as failing to comply with 37 CFR 1.84 for including reference numerals not disclosed in the specification. Claims 1-4, 6, 7, 9-17, 22 and 23 stand rejected under 35 USC 102(e) as being anticipated by Shiotsu (USP no. 7, 142, 204).

Claims 5, 8 and 18-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

With regard to the objection to the drawings, applicant has reviewed the drawings and the specification and elected to amend the specification to include the reference labels found in the drawings. No new matter has been added to the specification as the elements and corresponding reference labels were adequately disclosed in the originally filed drawings.

For the amendments to the specification, applicant submits that the reason for the

Appl. no. 10/596, 837
Inventor: Bell, D. A

objection has been overcome.

With regard to the rejection of claims 1-4, 6, 7, 9-17, 22 and 23 as being anticipated under 35 USC 102(e) by Shiotsu, applicant respectfully disagrees with and explicitly traverses the rejection of the claims.

In rejecting the claims the Office Action refers to col. 5, lines 23-35 for providing a channel-change demand control signal that is comparable to the claims element of "send a request to the service provider specifying at least one delivery parameter for delivery of the content, based on the determination of the operating duration."

A review of this section, however, reveals that Shiotsu teaches the generation of a signal that causes the tuner within the portable device to change to a change that allows the reception of the same program in a different format or image quality. ("[t]he channel control unit 38 generates a channel-control signal based on the channel-change demand input from the power control unit 37 and switch-controls the channels that the TV reception module 12 receives." (see col. 5, lines 32-35). Figure 2 further shows that the power control unit 37 sends a signal to the channel control unit 38 which provides a signal to the tuner 12.

Accordingly, Shiotsu fails to teach a system wherein the signal is provided to the service provider to provide the content in a desired format.

In addition, for the system of Shiotsu to operate, the content must be provided in both a high quality and a low quality format on different channels so that the channel change command to the tuner can cause the tuner to receive either the high quality format or the low quality format. Thus, Shiotsu determines whether to view the high or low quality content based on the processing required to process the high or low quality content and the remaining battery life.

Shiotsu fails to disclose receiving information regarding the format of content and then making a determination from the received information and the remaining battery life, as is recited in the independent claims.

A claim is anticipated if each of the elements of recited in the claim is disclosed

Appl. no. 10/596, 837

Inventor: Bell, D. A.

by a single prior art reference.

Shiotsu cannot be said to anticipate the invention claimed in claims 1 and 15, for example, as Shiotsu fails to disclose at least one material element recited in the claims, "sending a request to the service provider ...".

Accordingly, the independent claims 1, 17 and 23, and the claims dependent therefrom, are not anticipated by the cited reference as the cited reference fails to disclose all the elements recited in the independent claims.

Applicant thanks the Examiner for the indication of allowable subject matter in claims 5, 8 and 18-21 if rewritten in independent form. However, for the remarks made herein, applicant submits that all the claims are in allowable form.

For the amendments made to the specification and for the remarks made herein, applicant submits that all the objections and rejections have been overcome and that the claims are in a condition for allowance. It is respectfully requested that a Notice of Allowance be issued.

Should the Examiner believe that the disposition of any issues arising from this response may be best resolved by a telephone call, the Examiner is invited to contact applicant's representative at the telephone number listed below.

Respectfully submitted,

Date: December 22, 2008

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Appl. no. 10/596, 837

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